



UNITED STATES MARINE CORPS  
MARINE CORPS SYSTEMS COMMAND  
2200 LESTER STREET  
QUANTICO, VIRGINIA 22134-5010

IN REPLY REFER TO:

5720  
MCSC2013F005228  
12 May 14

FOIA Group  
Ms. Rose Santos  
P.O. Box 368  
Depew NY 14043

SUBJECT: FOIA DON-USMC-2014-005228

Dear Ms. Santos:

This responds to your FOIA request dated April 17, 2014, which requests a copy of contract M67854-12-F-7007, the Source Selection Memorandum and the Request for Proposals (RFP).

A copy of the contract was provided under separate correspondence dated November 26, 2012. The RFP can be found at the following URL:

[https://www.fbo.gov/?s=opportunity&mode=form&id=66d25bcb32faceb1bf91af515eee959c&tab=core&\\_cview=1](https://www.fbo.gov/?s=opportunity&mode=form&id=66d25bcb32faceb1bf91af515eee959c&tab=core&_cview=1)

The remainder of your request is hereby partially denied. After a careful review of the requested documents, this agency has determined that portions of the responsive documents are privileged from disclosure in pursuant to FOIA Exemptions 5 U.S.C. § 552(b)(3); 5 U.S.C. § 552(b)(4) and 5 U.S.C. § 552(b)(6) must be withheld in order to protect the submitter's proprietary and/or financial interests.

Specifically, FOIA Exemption 5 U.S.C. § 552(b)(3) precludes disclosure of an unsuccessful offeror's information if disclosure is prohibited by another statute. It is important to note that the Competition In Contracting Act of 1984 (CICA) and 10 U.S.C. § 2305(g), preclude the release of proposals and information contained within said proposals. In fact, CICA provides that "a proposal in the possession or control of [a military department] may not be made available to any person under section 552 of title 5." Id.

FOIA Exemption 3 and CICA establish that military departments are precluded from releasing a proposal that has not become part of an agreement with the government.

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Additionally, the Trade Secrets Act, 18 U.S.C.A. § 1905 (West Supp. 1999) ("TSA"), also precludes release of the requested proposals. Under this statute, officers and employees of the United States or any U.S. agency or department, are prohibited from divulging or disclosing information that relates to trade secrets, operations, style of work, confidential data, amount or source of income, profits, or expenditures.

FOIA Exemption 5 U.S.C. § 552(b)(4) exempts from disclosure (i) voluntarily submitted commercial or financial information provided that the submitter does not "customarily" disclose the information to the public and provided that disclosure would be likely to interfere with the continued and full availability of the information to the government, or (ii) compelled information likely to cause substantial harm to the competitive position of the person from whom it was obtained and likely to impact on the government's ability to obtain reliable information in the future. See Critical Mass Energy Project v. NRC, 975 F2d 871, 879-80 (D.C. Cir. 1992), cert. denied, 113 S.Ct. 1579 (1993); National Parks & Conservation Ass'n v. Morton, 498 F2d 765, 766 (D.C. Cir. 1974); Canadian Commercial Corp. v. Dept. of Air Force, 514 F.3d 37 (D.C. Cir., 2008).

Finally, FOIA Exemption 5 U.S.C. § 552(b)(6) exempts disclosure of information that would constitute a clearly unwarranted invasion of personal privacy.

As of May 12, 2014, one half hour of search and review (currently billed at \$44 per hour) has been expended during the processing of your request. Please remit a check or money order, payable to the Treasurer of the United States in the amount of \$22.00 to: COMMANDER, ATTN LAW, MARCORSYSCOM, 2200 LESTER STREET, SUITE 120, QUANTICO VA 22134-5010.

Department of the Navy  
Office of the General Counsel  
ATTN: FOIA Appeals Office  
1000 Navy Pentagon Room 4E635  
Washington DC 20350-1000

For consideration, the appeal must be received in that office within 60 days from the postmark of this letter's envelope. Attach a copy of this letter and a statement regarding why you believe an adequate search was not conducted. Both your appeal

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letter and the envelope should bear the notation "FREEDOM OF INFORMATION ACT APPEAL". Please provide a copy of any such appeal letter to the MARCORSYSCOM address above.

Any questions concerning this matter should be directed to Mrs. Bobbie Cave at (703) 432-3934 or [bobbie.cave@usmc.mil](mailto:bobbie.cave@usmc.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "S. Allen", with a stylized flourish at the end.

S. A. ALLEN  
Chief of Staff



UNITED STATES MARINE CORPS  
MARINE CORPS SYSTEMS COMMAND  
2200 LESTER STREET  
QUANTICO, VIRGINIA 22134-6050

IN REPLY REFER TO

21 AUG 2012

MEMORANDUM FOR THE RECORD

Subj: SOURCE SELECTION DECISION MEMORANDUM

Ref: (A) TIGER CLS SOLICITATION M67854-11-R-7005 (AS AMENDED)  
(B) BEST VALUE DETERMINATION DOCUMENT DATED 17 AUG 2012  
(C) SOURCE SELECTION GUIDEBOOK, DATED 09 JUL 2012

1. The purpose of this memorandum is to document my direction as the Source Selection Authority to award a contract pursuant to Solicitation No. M67854-11-R-7005, as amended, for the TIGER CLS acquisition.
2. As Source Selection Authority (SSA) for the referenced acquisition, I have completed an independent, detailed review of the facts and findings with regard to this source selection. Based on that independent review, I have confirmed that the evaluations conducted by the Technical Evaluation Team (TET) and the Price Evaluation Team (PET) have been uniform and consistent with the evaluation criteria delineated in the TIGER CLS Solicitation No. M67854-11-R-7005.
3. As SSA for the referenced acquisition, I have determined that the TIGER CLS offering proposed by General Dynamics Information Technology is the highest technically rated, lowest evaluated price, and thus provides the best overall value to satisfy the Government's minimum requirements.
4. As cited in the Best Value Determination Document, reference (B), proposals were received from the following companies (in no specific order): 1 (b) (3), (b) (4), 2) (b) (3), (b) (4), 3) (b) (3), (b) (4). All were evaluated pursuant to the solicitation and the corresponding Source Selection Guidebook, reference (C).
5. The source selection data and information provided to me documents that GDIT submitted the highest rated proposal. Pursuant to the RFP, the Government considered overall technical merit to be of significantly greater importance than evaluated price. As provided in the Best Value Determination Document, reference (B), the Government may award to other than the lowest price, acceptable offer if it is determined that the superior capability is worth the additional price. However, in this case the highest rated offer from a technical perspective was also the lowest price. The best value determination was straight forward, the offeror with the highest technically rated proposal and the lowest price constitutes the overall best value.

6. The following is a summary of the technical ratings by offeror and their respective prices:

	(b) (3), (b) (4)		(b) (3), (b) (4)
<b>Factor</b>		<b>GDIT</b>	
Evaluation Factors		Rating	
Performance Management		Outstanding	
Program Management		Outstanding	
Transition Management		Outstanding	
Past Performance		Substantial Confidence	
Evaluated Price		(b) (3), (b) (4)	

7. The source selection data and information provided to me documents that only GDIT submitted an acceptable proposal. (b) (3), (b) (4) proposal included assumptions that were non-compliant with the terms and conditions of the solicitation, rendering the proposal deficient.

(b) (3), (b) (4) Technical Proposal was rated (b) (3), (b) (4)

8. It is my determination that the overall technical merit of GDIT's proposal at the lowest evaluated price represents the Best Value to the USMC in meeting the TIGER CLS Requirement. In accordance with the authority provided in the Source Selection Guidebook, as the Source Selection Authority, I direct award of the TIGER CLS Contract to GDIT.

(b) (6)

Source Selection Authority